PEARSON, J.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA,	)	
	)	CASE NO. 1:18CR517-1
Plaintiff,	)	
	)	
v.	)	JUDGE BENITA Y. PEARSON
	)	
OTIS PAMPLIN, *et al.*,	)	
	)	
Defendants.	)	**ORDER** [Resolving ECF No. 31]

Defendant Otis Pamplin moves the Court to suppress all statements made during police interrogation because his waiver of *Miranda* rights was not knowingly, voluntarily, and intelligently made. ECF No. 31. The matter has been briefed[1] and a hearing was held at which both sides participated in the presentation of evidence or argument. For the reasons stated below, the motion to suppress is denied.

I. Background

On July 11, 2018, at approximately 11:50 a.m., Otis Pamplin was arrested by members of the Cleveland Heights Police Department after allegedly fleeing on foot from a vehicle that the police had been chasing. *See* ECF No. 31 at PageID#: 186. Pamplin was handcuffed, taken into police custody, and transported to the Cleveland Heights Police Department, where he was placed in an interrogation room. *See id.*

[1] Pamplin filed a brief in support of his motion, and the Government responded.

Less than one hour later, at approximately 12:45 p.m., a police officer read Pamplin his *Miranda* warnings and asked him to sign a document titled "SPECIFIC WARNING REGARDING INTERROGATIONS." *See id.*; ECF No. 31-1. That written warning states:

> 1. You have the right to remain silent.
>
> 2. Anything you say can and will be used against you in a court of law.
>
> 3. You have the right to talk to a lawyer and have him present with you while you are being questioned.
>
> 4. If you cannot afford to hire a lawyer, one will be appointed to represent you before any questioning if you wish one.
>
> 5. If at any time during questioning you wish to stop and obtain the advice of a lawyer, you have the right to do so.
>
> **NOW** that you have been advised of your rights, would you please answer the following:
>
> 1. Do you understand each of these rights I have explained to you? _____
>
> ECF No. 31-1.

Pamplin wrote "Yes" in the blank space, and he signed and dated the warning. Had he refused to sign, there was a space available to indicate refusal. *Id.* That space is blank.

At the time of the interrogation, Pamplin was 18 years old. ECF No. 31 at PageID#: 186. He was shirtless during the interrogation but covered himself and/or used as a pillow a blanket provided by the police.[2] *Id.* He was handcuffed to his chair during the interrogation. *Id.* The interrogation lasted about two hours, but Pamplin acknowledges that they took several breaks.

[2] The interrogation was video recorded and showed Detective Anderson wearing only a short sleeve blouse. The room did not appear chilly that July day.

Id. at PageID#: 188. At the time of the interrogation, Pamplin had a high school diploma and had been involved in a juvenile case about three years earlier. *Id.* at PageID#: 188-89.

II. Law and Analysis

For a *Miranda* waiver to be effective, it must be knowingly, voluntarily, and intelligently made. *Miranda v. Arizona*, 384 U.S. 436, 444 (1966). To be knowingly, voluntarily, and intelligently made, a *Miranda* waiver must be (1) free of intimidation, coercion, or deception, and (2) made with full awareness of the nature of the right and the consequences of forgoing that right. *See Colorado v. Spring*, 479 U.S. 563, 573 (1987).

To assess the first prong of that test, courts consider a number of circumstances, including "the length of the interrogation, its location, its continuity, the defendant's maturity, education, physical condition, and mental health, as well as whether the police advised the defendant of his *Miranda* rights and whether the record contains evidence of police coercion." *United States v. Williams*, 612 F.3d 417, 420-21 (6th Cir. 2010). As for the second prong, "[t]he relevant question is . . . whether the suspect knew that he could choose not to talk to law enforcement officers, to talk only with counsel present, or to discontinue talking at any time." *Garner v. Mitchell*, 557 F.3d 257, 261 (6th Cir. 2009) (quoting *Spring*, 479 U.S. at 574).

Pamplin argues that his *Miranda* waiver was not knowingly, voluntarily, and intelligently made. ECF No. 31 at PageID#: 189. He advances four propositions in support of that conclusion. First, he says, his "mental acuity was lacking as he was in an exhausted and tired state of mind with only a thin blanket to cover his shirtless body and handcuffed to a chair during the two-hour investigation." *Id.* Second, "the interrogation was conducted in a location

unfamiliar [to] Pamplin, a sterile police interrogation room and conducted by four different law enforcement officers." *Id.* Third, "Pamplin is not mature by any means as he was only 18 years old at the time of the interrogation." *Id.* And fourth, "Pamplin is not familiar with law enforcement or the criminal justice system as this is his first adult case and he has never . . . had his *Miranda* rights read to him or been asked to waive them in writing." *Id.*

Pamplin's arguments are unpersuasive. First, the police officers read *Miranda* and conducted the interrogation during the middle of the day, and Pamplin gives no reason to suspect that he was so exhausted that he could not comprehend the words the officers spoke aloud and the words he read on the specific warning regarding interrogations.[3] Second, there is nothing unusual about a custodial interrogation occurring in a location unfamiliar to the suspect. Unfamiliarity with one's surroundings does not vitiate a waiver of rights. Third, Pamplin was an adult with a high school diploma. He was not so immature and uneducated that he could not comprehend the words that were spoken aloud and written on paper. Fourth, even if Pamplin were unfamiliar with law enforcement and his *Miranda* rights, the police officers gave him two opportunities to signal understanding of his rights and consent to interrogation once aloud, and again in writing. *See* ECF No. 31 at PageID#: 186; ECF No. 31-1. He signaled that he understood each time.

[3] The video shows Pamplin napping when in the room alone. That indicates he had opportunity to rest during breaks.

III. Conclusion

For the reasons stated above, the Court finds that Defendant Otis Pamplin knowingly, voluntarily, and intelligently waived his Fifth Amendment right against self-incrimination. His motion to suppress (ECF No. 31) is denied.

IT IS SO ORDERED.

February 22, 2019
Date

/s/ Benita Y. Pearson
Benita Y. Pearson
United States District Judge